

Docket No: RPC 0572 PUS

REMARKS

The Examiner has rejected claims 1-3 and 12-54 as obvious over Apps (4,899,874) in view of Kappel (2,970,715) and in further view of Exhibit 2 from D.W. Plastics.

Request for withdrawal of finality of the rejection

The Examiner's application of these references to some of the pending claims is unclear. The Examiner has not set forth a full analysis of what he believes are the differences between each reference and the claimed invention, the proposed modification and the motivation for the proposed modification. (MPEP 706.02(j)). In particular, the Examiner has not presented a *prima facie* case of obviousness for his rejection of Claims 12 and 50. Applicant respectfully requests a clarification of this rejection and a withdrawal of the finality of this rejection so that Applicant can have a full opportunity to address this rejection.

Obviousness Rejection

Claim 1 requires a lower wall portion having "an upper edge and a lower edge each having a contoured shape substantially along the length thereof." The Examiner has indicated that he is interpreting the term "contour" to mean "the outline of a figure, mass, land, etc." In other words, the Examiner is interpreting the term "contour" to mean simply "shape" and consequently to cover any shape. Applicant respectfully asserts that this broad interpretation is unreasonable for several reasons. The word in the claim is not "contour" (a noun) but "contoured" (an adjective). Since the word "contoured" in the claim is used to describe the word "shape," the Examiner's interpretation would render the term "contoured" redundant and meaningless. The proper interpretation, also one of the dictionary definitions of "contour," is that the term "contoured" means that the shape is a curved shape, such as disclosed in the present application. As is not disputed, the lower edge of the D.W. Plastics wall is straight, not contoured. Further, the Board has indicated that

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modification according to any suggestion from D.W. Plastics would still leave the lower edge of the side wall straight. (Page 8 of Board Decision).

Claim 29 specifies that first and second columns extend a first height and a second height above first and second locations on the lower edge of the side structural members, respectively. As the Board has indicated, if Apps '874 were modified according to Exhibit 2 from D.W. Plastics as the Examiner suggests, the lower edge of the side wall would have a straight edge. Therefore, Claim 29 is patentable.

Claim 45 specifies that first and second locations directly opposite one another on the upper edges of the two side structural members are vertically offset. In contrast, in Exhibit 2 from D.W. Plastics, directly opposing locations on the upper edges of the two side structural members are always vertically equal, not vertically offset. Therefore, Claim 45 is patentable.

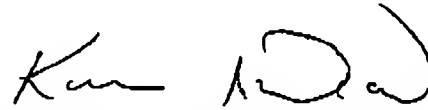
Dependent claims 15, 32 and 54 have been amended to specify that the lower edge of the side wall is wave shaped. The Board Decision stated, "D.W. Plastics does not suggest making the lower edge of the side wall in a similar wave shape . . ." (Board Decision, Page 8). Therefore, Claims 15, 32 and 54 are independently patentable.

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CONCLUSION

Reconsideration is requested. Should a notice of allowance not be issued, the Examiner is requested to enter this amendment for purposes of appeal. It is believed that no fees are due; however, if any fees are due, please charge Deposit Account No. 50-1984.

Respectfully submitted,



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Version with markings to show changes made

IN THE CLAIMS

15. (Amended) The case of claim 12, wherein the lower edge of [the] each side structural member is [each contoured] wave-shaped along its respective length [lengths].

32. (Amended) The case of claim 29, wherein the lower edge of [the] each side structural member is [contoured] wave-shaped along its respective length.

54. (Amended) The case of claim 50, wherein [at least one] each of the upper and lower edges of the side structural members is [contoured] wave-shaped along its length.